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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 RONALD LENNON,

10 *Petitioner,*

11 vs.

12 DWIGHT NEVEN, *et al.*,

13 *Respondents.*
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3:10-cv-00663-LRH-VPC

ORDER

16 This represented habeas matter comes before the Court for initial review of the counseled
17 amended petition (#22) and on petitioner's motion (#21) for an extension of time, which will be granted
18 *nunc pro tunc*. Following initial review, a response will be directed.

19 IT THEREFORE IS ORDERED that respondents shall have **sixty (60) days** from entry of this
20 order within which to respond, including potentially by motion to dismiss, to the petition, as amended.
21 **Any response filed shall comply with the remaining provisions below, which are tailored to this**
22 **particular case based upon the Court's screening of the matter and which are entered pursuant**
23 **to Habeas Rule 4.**

24 IT FURTHER IS ORDERED that any procedural defenses raised by respondents in this case
25 shall be raised together in a single consolidated motion to dismiss. In other words, the Court does not
26 wish to address any procedural defenses raised herein either in *seriatum* fashion in multiple successive
27 motions to dismiss or embedded in the answer. Procedural defenses omitted from such motion to
28 dismiss will be subject to potential waiver. Respondents shall not file a response in this case that

1 consolidates their procedural defenses, if any, with their response on the merits, except pursuant to 28
2 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If respondents do seek
3 dismissal of unexhausted claims under § 2254(b)(2): (a) they shall do so within the single motion to
4 dismiss not in the answer; and (b) they shall specifically direct their argument to the standard for
5 dismissal under § 2254(b)(2) set forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In
6 short, no procedural defenses, including exhaustion, shall be included with the merits in an answer. All
7 procedural defenses, including exhaustion, instead must be raised by motion to dismiss.

8 IT FURTHER IS ORDERED that, in any answer filed on the merits, respondents shall
9 specifically cite to and address the applicable state court written decision and state court record
10 materials, if any, regarding each claim within the response as to that claim.

11 IT FURTHER IS ORDERED that petitioner shall have **thirty (30) days** from service of the
12 answer, motion to dismiss, or other response to file a reply or opposition.

13 IT FURTHER IS ORDERED that petitioner's motion (#21) for an extension of time to file the
14 amended petition is GRANTED *nunc pro tunc*.

15 DATED this 12th day of April, 2013.



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18 LARRY R. HICKS
19 UNITED STATES DISTRICT JUDGE
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